

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CYNTHIA L. ALLEN,

Plaintiff,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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Civil No. 11-1100-CJP

**MEMORANDUM and ORDER**

**PROUD, Magistrate Judge:**

This matter is now before the Court on the parties' Stipulation to Remand. **(Doc. 26).**

The parties ask the Court to remand the case for further administrative proceedings pursuant to sentence four of 42 U.S.C. §405(g).

Remand of a social security case can be ordered only on one of two grounds, that is, pursuant to sentence four or sentence six of 42 U.S.C. § 405(g). A sentence four remand depends upon a finding of error, and is itself a final, appealable order. In contrast, a sentence six remand is for the purpose of receipt of new evidence, but does not determine whether the Commissioner's decision as rendered was correct. A sentence six remand is not an appealable order. See, *Melkonyan v. Sullivan*, 501 U.S. 89 (1991); *Perlman v. Swiss Bank Corporation Comprehensive Disability Protection Plan*, 195 F.3d 975, 978 (7<sup>th</sup> Cir. 1999).

Here, the Commissioner implicitly confesses error by asking for reversal with remand pursuant to sentence four.

The Court notes that Ms. Allen filed her application for Disability Insurance Benefits in August, 2008, and the ALJ issued his decision in May, 2010. (Tr. 14-21). Administrative

remedies were not completed until November, 2011, when the Appeals Council denied review. (Tr. 1). While recognizing that the agency has a full docket, the Court urges the Commissioner to expedite this matter to the extent practicable.

For good cause shown, the parties' Stipulation to Remand (**Doc. 26**) is **GRANTED**.

The final decision of the Commissioner of Social Security denying Cynthia L. Allen's application for social security benefits is **REVERSED and REMANDED** to the Commissioner for rehearing and reconsideration of the evidence, pursuant to sentence **four** of 42 U.S.C. §405(g).

The Clerk of Court is directed to enter judgment in favor of plaintiff.

**IT IS SO ORDERED.**

**DATED: September 28, 2012.**

s/ Clifford J. Proud  
**CLIFFORD J. PROUD**  
**UNITED STATES MAGISTRATE JUDGE**